IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 10TH OCTOBER 2006 / 18TH ASWINA 1928

ST.Rev..No. 277 of 2004()

TA.119/2001 of S.T.A.TRIBUNAL,ADDL.BENCH,PALAKKAD
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PETITIONER/APPELLANT/ASSESSEE

M/S.EQUIPMENT AGENCIES, BUILDING NO.VII/
698, ROOM NO.S. POOLAKKATTAYIL SHOPPING COMPLEX,
CHANDRANAGAR TRAFFIC JUNCTION, PALAKKAD 678 007,
REP. BY V.P.PRABHAKARAN, MANAGING PARTNER.

BY ADV. SRI.T.M.SREEDHARAN
SRI.DEEPAK JOY.K.

RESPONDENT/RESPONDENT: REVENUE.

STATE OF KERALA, REP. BY THE
CHIEF SECRETARYTO GOVERNMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER SRI.V.V. ASOKAN.

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 10/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

S.T.REV. No. 277 OF 2004

Dated this the 10th day of October, 2006.

JUDGMENT

Ramachandran Nair, J.

The question raised is whether Tribunal was justified in reversing the order of the first appellate authority by holding that Mono-block Compressor Pump Sets sold by the petitioner are not entitled to concessional rate of tax as provided under Entry 31 of Schedule II of Notification SRO. 1728/93. Entry 31 reads as follows:

"Mono-block Pump Sets upto 1H.P. Rate of tax is 2%."

Case of the petitioner is that item sold is motor and compressor contained in a single block used for pumping water through tube wells. According to him concessional rate has been claimed only on such Mono-block Compressor Pump Sets upto 1 H.P. On going through the orders of the authorities below, including the Tribunal, we find no authority has disputed petitioner's claim about the nature of the product and the process involved. Normally Mono-block Pump Sets are a combination of motor and pump forming a single block. However, in deep wells compressed air is generally used to pump out water. The

technology applied is use of compressed air to pump up water using two pipes. There is nothing to indicate that concessional rate is available to only a particular type of Mono-block Pump Set. What we understand from the entry is that the requirement will be met if the purpose of the equipment is pumping and the equipment should be a Mono-block system used for pumping. No pumping is possible without the aid of a motor and it is immaterial whether compressed air is used for pumping water or not. In other words, instead of combining a pump with the motor, the purpose of pumping is achieved by attaching a compressor to the motor. When the Compressor acts as a pump, the requirement of the entry is satisfied. So much so, in principle we are of the view that Mono-block Compressor Pump Sets upto 1 H.P are also covered by Entry 31 of SRO. 1728/1993. However, since the Assessing Officer has not discussed the factual position; that is whether the Motor and compressor form a single block, we feel the matter requires re-examination and if both form a single block, claim has to be allowed.

We therefore allow the Sales Tax Revision by holding that the

Mono-block Compressor Pump Set of upto 1 H.P sold by the petitioner entitles for the concessional rate of tax under the notification above referred, if the Officer on re-examination is satisfied that both form a single block. The Tribunal's order is set aside with direction to the Officer to give opportunity to the petitioner to furnish data and if the factual position claimed is correct, to grant concessional rate and make fresh assessment accordingly.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(K.M. JOSEPH, JUDGE)

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K.S.RADHAKRISHNAN & K.M.JOSEPH, JJ.

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W.A. No. OF 200

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JUDGMENT

Dated this the day of February, 200.